

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

RJ LEE GROUP, INC.
350 Hochberd Road
Monroeville, PA 15146

Plaintiff,

v.

HAWKINS PARNELL THACKSTON &
YOUNG, LLP
303 Peachtree Street NE
Atlanta, GA 30308

ELECTRONICALLY FILED

and

R.T. VANDERBILT COMPANY, INC.
30 Winfield Street
Norwalk, CT 08655

Defendants.

NOTICE OF REMOVAL

AND NOW, come Defendant Hawkins Parnell Thackston & Young, LLP (“Hawkins & Parnell”) by and through their counsel Dickie, McCamey & Chilcote, P.C. and files this Notice of Removal of the above-captioned case from the Court of Common Pleas of Allegheny County, Pennsylvania where it has been assigned Civil Division Number GD-11-006894 to the United States District Court for the Western District of Pennsylvania, and in support thereof, avers as follows:

1. This action was commenced by a Writ of Summons in Civil Action filed on April 12, 2011 in the Court of Common Pleas of Allegheny County, Pennsylvania at Civil Division Number GD-11-006894. Defendant Hawkins & Parnell was served with original process of the Writ of Summons on or about June 17, 2011. On or about August 25, 2011, counsel for

Defendant Hawkins & Parnell was served with a copy of the Complaint. (A true and correct copy of the Complaint is attached hereto as Exhibit "A").

2. The Complaint contains three Counts, including Count I for breach of an alleged contract against Hawkins & Parnell only; Count II for unjust enrichment against Hawkins & Parnell only; and Count III for unjust enrichment against Defendant R.T. Vanderbilt only. (Exhibit "A").

3. The Complaint, including all three Counts, arise out of an alleged oral contract concerning expert services provided by Plaintiff RJ Lee to defend asbestos personal injury claims relative to amphibole minerals in industrial talc manufactured by Defendant R.T. Vanderbilt. The gist of the Complaint as it pertains to Defendant Hawkins & Parnell is that Hawkins & Parnell, acting as national trial counsel for Defendant R.T. Vanderbilt, met with representatives of Plaintiff RJ Lee on May 2, 2007, orally agreed to a scope of work for expert services and authorized RJ Lee to perform the scope of work. (Complaint, Exhibit "A"). Defendant Hawkins & Parnell denies Plaintiff's allegations.

4. According to the Complaint, Plaintiff seeks payment allegedly owed and unpaid with interest and costs incurred as a result of the oral contract to perform expert services.

5. Upon information and belief, according to the verified and sworn allegations of Plaintiffs' Complaint, the Plaintiff is a Pennsylvania corporation with its principal place of business at 350 Hochberd Road Monroeville, PA 15146. (Exhibit "A").

6. Defendant Hawkins & Parnell is a Georgia limited liability partnership with its principal place of business located at 303 Peachtree Street NE Atlanta, GA 30308. Defendant Hawkins & Parnell was not at the time of the commencement of this action, and is not now, a citizen of the Commonwealth of Pennsylvania.

7. Defendant R.T. Vanderbilt Company, Inc., upon information and belief, is a New York corporation with its principal place of business located at 30 Winfield Street Norwalk, CT 08655. (Exhibit "A").

8. The amount in controversy in this case exceeds seventy-five thousand (\$75,000.00) dollars, exclusive of interest and costs. When determining the amount in controversy, the court has to look to the Complaint itself. If the amount is unclear from the face of the Complaint, however, the court may make an independent appraisal of the claim, and after a generous reading of the Complaint, arrive at the reasonable value of the rates being litigated. Such appraisal is required to include the reasonable value of the potential compensatory and punitive damages. *Bachman Company v. McDonald*, 173 F. Supp. 2d 318, 322-323 (E.D. Pa. 2001; Angus v. Shiley, Inc., 989 F. 2d 142 (3rd Cir. 1993); *Cincaglione v. Southerlin*, 2004 U.S. Dist. LEXIS 18589 (E.D. Pa. 2004) (Court ruled that for demands of indeterminate value, the amount in controversy is not measured by the low end of an open ended claim). In the instant case, the Plaintiff is seeking compensatory damages, interests and costs for the alleged violations of oral contract and/or unjust enrichment in the amount of \$1,288,919.84. Thus, Defendant Hawkins & Parnell respectfully submits that a reading of the Complaint would arrive at the value being litigated to be in excess of seventy-five thousand (\$75,000.00) dollars.

9. Allegheny County, Pennsylvania where this action was initially filed is within the jurisdiction of the United States District Court for the Western District of Pennsylvania.

10. This Court has original jurisdiction of this action based upon the complete diversity of citizenship pursuant to 28 U.S.C. §1332, and this action is removable from the state court under the provisions of 28 U.S.C. §1441, *et seq.*

11. Concurrent with the filing of this document with the United States District Court for the Western District of Pennsylvania, Defendant Hawkins & Parnell has filed with the Allegheny County Court of Common Pleas and served upon Plaintiff's Counsel a Notice of Removal, advising the state court and Plaintiff's counsel that Defendant Hawkins & Parnell has removed this action to the United States District Court for the Western District of Pennsylvania. (A true and correct copy of said Notice of Filing of Notice of Removal is attached hereto as Exhibit "B").

Accordingly, Defendant Hawkins & Parnell pray that this case be removed from the Court of Common Pleas of Allegheny County, Pennsylvania to the United States District Court for the Western District of Pennsylvania.

WHEREFORE, Defendant Hawkins Parnell Thackston & Young, LLP pray that this case be removed from the Court of Common Pleas of Allegheny County, Pennsylvania to the United States District Court for the Western District of Pennsylvania.

[SIGNATURES ON FOLLOWING PAGE]

Respectfully submitted,

Date: September 14, 2011

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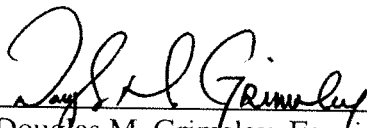
CERTIFICATE OF SERVICE

I, Douglas M. Grimsley, Esquire, hereby certify that true and correct copies of the foregoing Notice of Removal has been filed electronically with the Court and have been served this 14th day of September, 2011, by U.S. first-class mail, postage pre-paid, to counsel of record listed below:

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